IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

RSA No. 397 of 2007

Date of Decision : September 7, 2007

Ram Lal Thakur …Appellant

Versus:

Chairman-cum-MD,HP Ex-Servicemen Corpn. & another. …Respondents.

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] No

For the appellant : Mr. J. R. Poswal, Advocate.

For the respondents : Mr. Ramakant Sharma, Advocate.

Sanjay Karol, J (Oral).

The present appeal arises out of the judgment and decree dated 19.12.2006 passed by the District Judge, Bilaspur in Civil Appeal No. 70 of 2004 titled as Chairman-cum-MD,HP Ex-Servicemen Corpn.. and another v. Ram Lal Thakur.

For the purposes of convenience, appellant herein is referred to as 'the plaintiff' and the respondents herein are referred to as 'the defendants'.

Plaintiff was elected as President of the Working Committee of defendant No.1 on 14.3.2003 for a tenure of one

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

year i.e. 17.3.2003 to 16.3.2004. However, due to differences having arisen between the members, he was removed as such on 20.3.2003.

On 2.4.2003, plaintiff filed a suit for declaration and consequential relief of mandatory injunction which was decreed in favour of the plaintiff and the defendants were directed to appoint the plaintiff as President of the H.P. Ex-Servicemen Truck Operators Working Committee for a period of one year from the date of judgment.

Aggrieved by the same, the defendants filed an appeal No. 70 of 2004, which was decided by the District Judge on 19.12.2006. The first Appellate Court upheld the finding of the Trial Court to the effect that the expulsion of the plaintiff from the post of President of the H.P. Ex-Servicemen Truck Operators Working Committee is illegal and arbitrary, but however, reversed the subsequent part of the judgment, whereby the defendants were directed to appoint the plaintiff as President for a period of one year from the date of passing of the judgment.

The suit of the plaintiff, with the passage of the time, infact had become infructuous and no decree directing the defendants to appoint the plaintiff as President of the H.P. Ex-Servicemen Truck Operators Working Committee for a period after the expiry of the elected tenure could have been passed by the Court. The defendants are governed by the rules and

regulations and have its procedure for electing and appointing various office bearers for a fixed tenure. Elections are being conducted in terms thereof.

Learned counsel for the appellant has referred to ***Shikharchand Jain*** v. ***Digamber Jain Praband Karini Sabha and Others*** (AIR 1974 SC 1178) and ***Nand Kishore Marwah and Others*** v. ***Samundri Devi*** (1987(4) SCC 382), which is not even applicable and relevant for the purposes of adjudication of the matter in issue. To my mind, the ratio of the judgments cannot be applied in the facts and circumstances of the present case.

No substantial question of law arises in the present appeal and the same is accordingly dismissed.

(Sanjay Karol),
Judge.

September 7, 2007.
(*rana*)